



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

SA:SDD/RMT
F.#2012R01574

271 Cadman Plaza East
Brooklyn, New York 11201

September 18, 2013

The Honorable Sandra L. Townes
United States District Judge
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Ahmed et al.
Criminal Docket No. 12-CR-661 (SLT)

Dear Judge Townes:

The government submits this application respectfully requesting that the Court hold separate appearances for the defendants going forward in this case. As the Court is aware, each of the defendants in this case is subject to Special Administrative Measures ("SAMs") that have been issued by the Attorney General pursuant to 28 C.F.R. § 501.3. A copy of the SAMs for each defendant has been provided to each respective defendant and counsel, and counsel for the defendants have each signed affirmations agreeing that they will abide by the terms of the SAMs for their clients.

Notably, the SAMs for each respective defendant provide directives (1) to the Federal Bureau of Prisons ("BOP") as to certain conditions of the defendants' confinement at either the Metropolitan Detention Center ("MDC") in Brooklyn, New York, or the Metropolitan Correction Center ("MCC") in Manhattan, New York and (2) to the United States Marshals Service ("USMS") during transport of the defendants to and from the MDC and MCC and during their appearances in Court. In particular, the SAMs restrict the defendants' "access to the mail, the media, the telephone, and visitors," including each other, while providing the defendants with access to their respective attorneys who have affirmed their willingness to abide by the SAMs, consular authorities and approved family members.

The Attorney General, in directing that such restrictions be implemented, previously found that "[b]ased upon information provided to me of [the defendants'] proclivity for terrorism . . . there is substantial risk that [the defendants'] communications or contacts with persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of serious bodily injury to persons." Attorney General Memoranda to the BOP and USMS Regarding the Origination of SAMs for BOP Pre-Trial Inmates Hashi, Ahmed and Yusuf, dated April 19, 2013.

Such information provided to the Attorney General regarding the defendants' proclivity for terrorism includes the following: (1) the defendants are longstanding members of al-Shabaab, a Somalia-based terrorist organization that has merged with al-Qaeda and has publicly stated its intent to harm the United States and its allies; (2) the defendants have extensive weapons and combat training and were formerly members of an elite al-Shabaab suicide bombing unit; (3) many of the defendants' terrorist co-conspirators remain at large; and (4) the defendants are dangerous and influential foreign al-Shabaab fighters who have previously employed operational tradecraft and counter surveillance techniques to avoid detection by law enforcement authorities.

The government is also aware of information indicating that: (1) at the time of their arrests, the defendants were traveling to Yemen to join with the terrorist organization Ansar al Sharia in Yemen, also known as Al-Qaeda in the Arabian Peninsula ("AQAP"), (2) the defendants are associates of, and had specific knowledge regarding, significant al-Qaeda members operating in east Africa who sought to carry out attacks against United States and Western interests in that region, and (3) the defendants had substantial knowledge regarding an al-Shabaab research and development department that was developing chemical weapons for use by that terrorist organization.

Given the above, and in light of the information provided to the Court in letters submitted under seal regarding defendants Mohammed Yusuf and Mahdi Hashi on September 11, 2013, the government respectfully requests that the Court hold separate appearances for the defendants going forward in this case, to minimize the potential for violations of the defendants' SAMs during their appearance in Court and for the safety of the defendants themselves. The government has consulted with respective counsel for the defendants and all have indicated that they take no position whether or not the Court should hold

separate appearances for the defendants at least for the appearances currently scheduled for the week of September 23, 2013.

Respectfully submitted,

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